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THE LAW RELATING TO THE RELIEF AND CARE OF DEPENDENTS. III.

IMMIGRANTS AND TRAMPS.¹

LEGISLATION concerning those without a legal residence in a community has been necessary partly to definitely locate the responsibility for the care of the destitute, partly to repress vagrancy and to punish the tramp. In the preceding papers we have considered the legal provision for the care of the *resident* poor. In this paper we shall consider the provisions concerning the immigrant and non-resident poor on the one hand, and tramps and vagrants on the other.

I. LEGISLATION CONCERNING NON-RESIDENT PAUPERS.

In the law concerning the immigrant and non-resident poor, we meet with three points to be noticed, viz.: the conditions of a legal settlement or residence, the restrictions on immigration, and the provision for the relief and removal of those applying for relief in a community in which they have no legal residence.

Prefacing these remarks with the facts that a married woman takes the residence of her husband, children that of their parents, bastard children usually that of the mother, apprentices that of the master, and that an unmarried woman gains a settlement like a man, we shall notice the conditions of a legal residence or settlement.²

¹ While it is not our purpose to enter upon a discussion of the administration of the poor laws, perhaps it may be well to state that the laws discussed in this paper are rarely strictly enforced. Our only reason for giving them so much space is that it is often as well to state what exists in name only as well as that which is actually carried out.

² While the statement made holds true generally, some explanations should be made and a number of exceptions stated. In the first place, if her husband have no legal residence, a woman takes that which she had at the time of her marriage. In the second place, bastards do not always take the settlement of the mother. Under the

The conditions for securing a legal settlement are designed to fix definitely the responsibility for the care of the immigrant class and to guard against those transients who would become a burden upon the community. The usual requirement is that the person shall have resided within the town or county for a given time.^{*} This is the only condition found in twenty of the forty-

old common law a bastard had neither father nor mother. Then he took his settlement from the place of his birth. A few of the older commonwealths, as New Hampshire and New Jersey, which provided settlement regulations while holding closely to the old common law, still retain this provision. In the newer states, however, it is a matter of statutory regulation that the bastard child shall take the settlement of its mother. As to the settlement of apprentices, another exception needs to be made. In a number of states an apprentice does not immediately take the settlement of the master, but must pass through one year's service. Among these states may be named New York, Pennsylvania, Delaware, Ohio, and Minnesota.

^{*}The courts have construed the term "residence" in various ways. In some states time spent in a penitentiary or a hospital for the insane is considered as time in residence, because the person is detained by law. In other states the contrary rule obtains. In some cases the place of one's employment is to be taken as his residence. This obtains in Illinois (17, ch. 107, Hurd's Statutes, 1895, and 74 Ill., 101), and in Colorado, where the Illinois construction has been taken as a precedent. In New Hampshire the courts have held (3 N. H., 203, and 30 N. H., 71) that in order to secure a settlement one must have been in actual residence for the time required. In Minnesota (29 Minn., 240) likewise "continuous residence" is required. Residence in Iowa (50 Iowa, 439) means "personal presence in a fixed permanent abode." In Vermont (68 Vt., 487), Connecticut (29 Conn., 74), and Ohio (2 Ohio S., 32) it has been held that one's settlement is in that place from which he may have removed if he returns there at intervals and would return there in case of unemployment. It is impossible to appreciate these rulings when thus put, but when applied to cases diverse results are obtained.

When references are given by section numbers only, it is understood that they refer to the statutes used of the state in question. The statutes used were given in a preceding paper, but for convenience's sake are repeated here. They are: Ala., Code of 1886; Arizona, R. S., 1887; Ark., Sandell and Hill's Digest, 1894; Cal., Deering's Code and Stat., 1889; Colo., Mill's Annot. Stat., 1891; Conn., Gen. Stat., 1888; Del., Rev. Code, 1853, as amended in 1893; Fla., R. S., 1892; Ga., Clarke, Cobb, and Irwin's Code, 1882; Idaho, R. S., 1887; Ill., Hurd's R. S., 1895; Ind., Horner's A. R. S., 1896; Iowa, McLain's Annot. Stat., 1888; Kan., Taylor's Gen. Stat. 1889; Ky., Barbour and Carroll's Stat., 1894; La., Stat., 1884; Me., R. S., 1883; Md., Gen. Laws., 1888; Mass., R. S., 1892; Mich., Annot. Stat., 1882; Minn., R. S., 1894; Miss., Thompson, Dillard, and Campbell's Annot. Code, 1892; Mo., R. S., 1889; Mont., Annot. Stat., 1895; Neb., Comp. Stat., 1895; Nev., Bailey and Hammond's Gen. Stat., 1895; N. H., Pub. Stat., 1891; N. J., Gen. Stat., 1896; N. M., Comp. Laws, 1884; N. Y., Birdseye's R. S., 1890; N. C., Code of 1883; N. D., Rev. Code,

eight commonwealths. In the western states having such a requirement the time is noticeably short. In the northern and eastern states it is longer. In twelve states, eleven of them west of the Mississippi, the residence required in a town or county is from one to six months, while in nine states, six of which belong to the north central group, it is one year.¹ In Virginia three years' residence is an alternative for one year's residence without public relief.²

Eight states, including Virginia already mentioned, have a condition of self-maintenance or maintenance without public relief, in addition to the time qualification.³ A number of the eastern states have a property qualification. This is handed down from the colonial period, where it had been copied from the English law.⁴ In ten states, all southern and western (Maryland, 1895; Ohio, Gaique's R. S., 1890; Ore., Hill's Annot. Laws, 1892; Oklahoma, R. S.; Penn., Brightly Purdon's Digest; R. I., Gen. Laws, 1896; S. C., Gen. Laws and Civ. Code, 1882; S. D., Ter. Code of Dakota, 1887; Tenn., Code of 1884; Tex., Sayle's Stat., 1888; Utah, Comp. Stat., 1888; Vt., R. S., 1880; Va., Code of 1887; Wash., Laws and Code of 1896; W. Va., Code of 1891; Wis., R. S., 1887; Wyo., Hill's Annot. Laws, 1892. References to decisions and to acts passed since the statutes used were compiled are given in full.

¹In Nebraska a pauper is chargeable to the county in which he resided thirty days previous to his application for relief (3936). In Montana (3209) and Colorado (3392) sixty days' residence is required; in Oklahoma (3647), North Dakota (1478), South Dakota (2144), Wyoming (1956), and Oregon (3948), ninety days; and in Mississippi (3144), Kansas (4031), Nevada (1987), and Washington (1601), six months. One year's residence is required in West Virginia (5, C. 46), North Carolina (3543), Tennessee (2691), Michigan (1787), Indiana (6070), Illinois (17, C. 107), Minnesota (1954), Missouri (7329), and Iowa (2139).

²876.

³In order to secure a legal settlement in New York (16, p. 2259), Virginia (876), Ohio (1492), and Wisconsin (1500), the person must have been a resident of the county (or town) one year, and have received no public relief during that time. In South Carolina (880), Connecticut (3288), Maine (1, ch. 24), and New Jersey (Act of April 14, 1891), the same condition is found, except that the period is three years, four years, five years, and ten years, respectively. In New Jersey this period of ten years' residence without receiving public relief may be reduced to one year. Upon entering a town the person may notify the overseers of the fact, and, if they approve, he gains a settlement in one year. The overseers may refuse to approve, and, returning his notice, may remove him from the town at any time within the twelve months. If not removed, a person giving such notice gains a settlement with one year's residence.

⁴In Massachusetts (1, 2, ch. 83) holding office one year, possessing a freehold

Florida, Kentucky, Alabama, Louisiana, Idaho, Arizona, New Mexico, Utah, and California), no settlement qualification whatever is found. Georgia, while having no definite settlement qualification, has a law making one liable for the support of a pauper when removed to a county in order to secure public support there for him.¹ Similarly in Arkansas the poor authorities are not responsible for the care of any who may have removed in order to secure public support.² In Vermont the old settlement law has been repealed and a mere residence qualification substituted for it.³

and living thereon three years, or five years' residence in the town, with the payment of a poll-tax for three years, is required. In New Hampshire (1-4, ch. 83) not only is self-maintenance (maintenance without public relief) necessary, but also the payment of taxes on real estate of the value of \$150 or personal property of the value of \$250, for four years, or the payment of a poll-tax for seven consecutive years. (See also 3 N. H., 203, and 30 N. H., 71.)

In Rhode Island (1, ch. 78) the requirement is the payment of taxes for five years on a freehold worth \$200, or the ownership of an estate netting \$20 per year, for three years. In Delaware (12, ch. 46) holding office one year, paying poor rates for two consecutive years, paying \$50 rent on property or owning \$100 of real property, together with one year's residence, is necessary. The provision in Pennsylvania (50, p. 1705) differs from this only in that the payment of rent need be but \$10, instead of \$50.

New Jersey also had a property qualification similar to these given, but in 1891 the law was so amended as to abolish it. The last legislature of Pennsylvania, also, considered a bill for the repeal of the highly complex and useless law of that state and the substitution of one year's residence without public relief for it, but the measure did not succeed in getting through.

¹ The law provides (769) that when a pauper is removed "for the purpose of burdening some other community, the person so engaged shall be personally liable for the support of the pauper in the county where he locates." If such person be insolvent, the county from which the pauper is removed becomes liable (768).

² Section 860 provides that each county shall be liable for the relief and support of any needy poor "who have not removed from any other county for the purpose of imposing the charge of keeping them on any county other than the one in which they last lived."

³ In 1886 the old law whereby four years' residence without public relief was necessary to secure a settlement was repealed. Now only a residence qualification is found. "To retain a residence under the pauper law there must be a definite intention to return and a place to which the person has a right to return" (68 Vt., 487) "Transients" are to be relieved where they are and returned to the place where they resided sixty days previous to their application for relief. So Vermont, while repealing her old law, has substituted for it a measure definitely fixing the responsibility for "transients." (See Act of November 24, 1886, and No. 55, Acts of 1892.)

Perhaps, before we proceed to the laws against the migration of paupers, it may be well to speak of the retention of a settlement when once gained. As a rule a settlement is retained until a new one is gained, or until the person has been absent from his settlement sufficiently long to have secured a new one elsewhere. In some states, however, absence does not forfeit a settlement unless another has actually been secured. In a few states a settlement is not lost until a new one has been gained within the state.¹

As was noted above, in New Jersey a person likely to become dependent may be removed before he secures a settlement. A number of states have similar provisions.² In this we find a further restriction on removing and securing a new settlement. In these states, if one is about to become dependent, it is the duty of the poor authorities to report him to the justice of the peace. His condition is investigated, and upon the decision of the court, unless, as in Pennsylvania, security for his support can be given, he is removed to his place of settlement. Similarly, in Iowa the county supervisors or the township trustee may

¹ Thus the statutes of Oklahoma (3648), Indiana (6070), Wisconsin (1500), Kansas (4031), North Dakota (1478), and South Dakota (2144), have the provision that one settlement is lost when a new one has been secured, or after a willful and continuous absence sufficiently long to have gained a settlement elsewhere. On the other hand, in Maine (3, ch. 24), Connecticut (4 Conn., 114), Pennsylvania (2 Sup. Court, 259), Ohio (1493), and Iowa (2140), we find the one settlement retained until a new one is secured; while in Massachusetts (3, ch. 84), New Hampshire (7, ch. 83), and Illinois (25 Ill., 125) one settlement is retained until another is secured within the state, regardless of the fact that in the meantime one may have been secured in some other state.

In locating the responsibility for a "transient" it is very frequently found that he has no settlement. Thus if one leaves a settlement in Indiana or Wisconsin and is absent for a year, he loses his right to relief there, although he has, in all probability, not become entitled to public relief elsewhere. If he start from Maine or Massachusetts, however, there must always be some place from which he is entitled to public relief.

² Besides in New Jersey (Sec. 17, Act of April 14, 1891), this provision is found in Rhode Island (11-14, ch. 81), Pennsylvania (58, p. 1706), West Virginia (10, ch. 46), Virginia (878), Delaware (13, ch. 48), and Indiana (6079). It came originally from the old English law, having been incorporated there in 1662. In England the provision led to so much abuse that it was stricken from the law in 1795. Perhaps it is never enforced in any of our commonwealths.

"warn" such a one, whereupon he cannot secure a settlement.¹ In Missouri a person migrating in order to secure public relief cannot become an "inhabitant."² However, in this state, in the administration of relief, the court may, at his discretion, disregard settlement qualifications.

To avoid being burdened with paupers, cripples, defectives, and others landed by the steamship companies, most of the Atlantic coast states have statutes requiring the captains of vessels to give bond for the support of, in some cases all non-resident defectives, in others, of all non-residents, landed.³ In Rhode Island the law extends to railroad companies. These really form a part of our immigration laws.

The laws directed against the migration of paupers are of three kinds according as they are directed, (1) against bringing a pauper into a county or town in which he has no settlement, or (2) against the poor authorities and prohibiting the removal of a pauper in order to avoid supporting him, or (3) particularly against "interstate migration." However, they all have the one purpose of checking the tendency of communities to shift the responsibility for the support of their poor.

In as many as nineteen states,⁴ mostly northern, we find it unlawful to bring a person about to become dependent into a county or town (according as the "county" or the "town system" prevails) of which he is not a legal resident with the intention of there securing his support.⁵ As a rule the offending

¹ 2142, 2143.

² 7329.

³ Such provisions are found in Massachusetts (1-4, ch. 84), New Hampshire (16, 17, ch. 85), Rhode Island (2-9, ch. 80), New Jersey (2, p. 2511), Pennsylvania (1-5, p. 1010), Delaware (16, 17, ch. 48), Georgia (769), Mississippi (3164, 3165), and Alabama (1470). The bond usually covers a period of years closely corresponding to the time required for securing a settlement. Refusal to give bond is subject to fine.

⁴ These states are New Hampshire (11, ch. 85), Vermont (2844), Maine (49, ch. 24), Rhode Island (1, ch. 80), New York (46, 47, p. 2265), South Carolina (887), Georgia (767, 768), Kentucky (3922), Michigan (1767), Illinois (13, ch. 107), Ohio (986-993), North Dakota (1508-1510), South Dakota (2176, 2177), Nebraska (3941), Wyoming (1958), Colorado (3395), Nevada (1591), Oregon (3952), and Washington (1595).

⁵ The qualification of intent is very important. Bringing a pauper into a county or town or into the state is unlawful only if there is a definite intention to make such

party forfeits a fixed sum for the support of such a pauper, or is fined or imprisoned and charged with his support or removal.¹

Of the states named in connection with the above, the statutes of New York, Michigan, North Dakota, and South Dakota also apply to the removal of a pauper from his place of settlement in order to avoid supporting him. In Connecticut, Kansas, and Wyoming it is unlawful to remove a pauper from his settlement.² In Connecticut and Wyoming no penalty is attached. In Kansas there is a fine of not to exceed \$100, or imprisonment not longer than a year.

A number of states have enacted particularly severe legislation against "interstate migration." Massachusetts, New Hampshire, Vermont, Maine, New York, Pennsylvania, West Virginia, Wisconsin, and Minnesota make it unlawful to bring a pauper into the state with the intention of causing him to be there publicly supported.³ In Vermont the migrating pauper himself is person a public charge there, and in a prosecution such an intention must be established. The statutes of Maine (Act of 1891), Rhode Island (1, ch. 80), South Carolina (887), Michigan (1767, 1776), Ohio (985), Illinois (13, ch. 107), Wisconsin (1515), Minnesota (1968), Nebraska (3941), Nevada (1991), and Oregon (3952), apply to only those cases where the act is done knowingly and with malicious intent. Also, in Massachusetts (16 Mass., 393; 18 Mass., 465), Vermont (50 Vt., 173), New York (8 Wend, 672), and New Hampshire (45 N. H., 181), it has been held by the courts that such malicious intent must be established. This condition may perhaps render the law almost worthless. Under the law applying to the removal of a pauper to avoid supporting him conviction would not be so difficult.

¹ The penalties in the several states are as follows: Illinois, Nebraska, Washington, Oregon, and Nevada, a forfeit of \$100; in Colorado a forfeit of \$200; in Ohio a fine of not to exceed \$50; in Maine and South Carolina a fine of not to exceed \$100; in Wyoming a fine of from \$25 to \$100; in Vermont a fine of not to exceed \$500, and the costs of support or removal; in North and South Dakota a fine of not to exceed \$100, or imprisonment not longer than a year, or both; in Michigan a fine of not to exceed \$100, or ninety days in jail, or both; in New Hampshire a fine of not to exceed \$200, or imprisonment in jail not longer than six months; in Rhode Island a forfeit of \$100, or a fine of not to exceed \$20 together with the costs of removal; in New York a forfeit of \$50 and a fine of not to exceed \$100, or imprisonment not longer than six months, or both. In Georgia a person removing a pauper in order to secure his support becomes personally liable for such support. So, too, in Kentucky the law provides that the guilty person shall give bond for the poor person brought in, or is fined not to exceed \$100.

² 3310; 4065, 4066; 1958.

³ 31, ch. 84; 13, ch. 85; 2843; 1891; 81, p. 2269; 57, p. 1706; 12, ch. 46; 1515

fined not to exceed \$20, or imprisoned not longer than six months, when entering the state in order to secure public support. It is to be noted, too, that where there is no special legislation against "interstate migration," the law against bringing a pauper into a county or town in which he has no settlement applies.

When we turn to the treatment of the non-resident poor, we find the provisions various. As was noticed, ten states have no settlement requirement, and, consequently, no distinction of persons as resident and non-resident. Of these, Utah expressly provides that "transients," as well as others, shall be cared for by the several counties.¹ As was also noticed, the counties of Arkansas and Georgia are not responsible for the relief and support of non-residents removing in order to secure public support. In Missouri the court in whom is vested the power to provide for the poor may, at his discretion, disregard all settlement requirements. Were he to regard them, no provision would be found for the care and removal of the non-resident. The state of Tennessee makes the distinction between the "resident" and the "non-resident" poor, and admits the former to the almshouse, but no special provision is found for the relief or removal of the latter.² The remaining states make special provision for either the support or removal of non-resident dependents.

It will be well to distinguish between two classes of non-residents, viz.: (1) those who have no known residence in the state, and (2) those who have a residence in some town or county of the state other than that which they are in. We shall first notice the provisions concerning the former class.

The residence of a person of this former class may or may not 1968. In Massachusetts and West Virginia a person bringing a pauper into the state is liable to a fine of not to exceed \$100; in Minnesota, a forfeit of \$50, and a fine of not to exceed \$100, or imprisonment not longer than three months; in Wisconsin and New York, a forfeit of \$50, and in Pennsylvania, a forfeit of \$75, together with the expense of his removal or support; in Maine, a fine of not to exceed \$300, or imprisonment not longer than one year, with all costs of support; and in New Hampshire, a fine of not to exceed \$500, or imprisonment not longer than one year, or both, together with the costs of support.

¹ 187.

² 2114.

not be known. A number of states make it a mere matter of convenience to care for those who are residents of another state or to remove them to their residence, the implication of the law being that, if they have no residence, or if they have one and are not removed to it, they are to be cared for. In this group we find Massachusetts, Connecticut, New Hampshire, Pennsylvania, West Virginia, Delaware, Ohio, and Iowa.¹ In Oklahoma, North Dakota, South Dakota, and Kansas it is made discretionary with the poor authorities to care for those whose settlement cannot be established.² This discretion, however, does not extend to the sick, who must be cared for. In the seven states of Maine, New York, Michigan, Indiana, Illinois, Wisconsin, and Oregon all non-residents of this class are to be cared for. In New York and Michigan their removal is explicitly prohibited.³

When this class of non-residents is cared for, it is in most cases done at the expense of the town or county in which they may be. There are a number of exceptions to this, however. In Maine, Connecticut, and Oregon such expense is recovered from the state.⁴ Massachusetts, Rhode Island, and New York have made state provision for their care. Massachusetts has a state almshouse in which all such as can be removed are cared for under the direction of the state board of lunacy and charity. Such as cannot be removed are cared for by the town overseers and the expense recovered from the state.⁵ Rhode Island also has a state almshouse, in which state paupers (also, by special contract, some town paupers) are cared for under the direction of the state board of charities and corrections.⁶ Those

¹ 38, ch. 84; 3292; 19, ch. 85; 58, p. 1706; 10, ch. 46; 13, ch. 48; 969; 2141. In every case, except in Connecticut, the statutes authorize the removal of paupers to their settlements only. In Connecticut, however, they authorize the removal of a pauper to his settlement in some other state or to the boundary of the state through which the pauper entered the state of Connecticut.

² 3655; 1484; 2151; 4038.

⁵ 13-43, ch. 33.

⁶ 126, ch. 79.

³ Act of 1887, and 38 Me., 472; 90, 91, ch. 225; Acts of 1896; 1769; 6077; 16, ch. 107; 1517; 3950.

⁴ 30, ch. 24, and Act of 1887; 3311; 3950. Non-residents are a state charge in Connecticut for six months, after which period they become local charges.

persons not having a county residence of sixty days in New York are state charges and are under the supervision of the state board of charities. The state has no almshouse, but has selected fifteen county almshouses at which its charges are kept. At the expiration of sixty days the pauper becomes chargeable to the county in which he became dependent.¹

Thus we find that, with the exception of a few states, those making special provision for this class leave much of it to the discretion of the poor authorities, and the matter is largely one of convenience. Looked at from the standpoint of legal provision, the treatment of non-residents of the second class—those having a legal settlement in some town or county of the state—is, on the other hand, not so much a matter of mere convenience. Here the purpose of the law is to provide for the immediate necessities of the indigent person and to remove him to his place of settlement, both relief and removal being at the expense of the place of settlement. The details of the provisions for this second class are diverse.

The most highly developed provisions are that the non-resident applicant shall be given temporary relief and notice of his indigence be sent to the authorities of his place of settlement. Upon receipt of this notice the authorities must remove the indigent to his settlement and pay all costs of his temporary relief. This provision is found in some sixteen states, mostly northern and eastern.² The regulations are such as to cause early notice of the person's indigence to be given and to effect his removal immediately upon receipt of the notice.³

¹ 31, ch. 463, Acts of 1896.

² Massachusetts (29, ch. 84); Connecticut (3304-3306); Vermont (Act of April 14, 1886); Maine (4, ch. 24); New Hampshire (1, 13, ch. 84); Rhode Island (29, ch. 79); New York (18, p. 2259); South Carolina (883-886); Michigan (1768-1770); Ohio (Act of 1892); Illinois (16, ch. 107); Wisconsin (1513, and 51 Wis., 185); Nebraska (3937); Iowa (2144-2146); Nevada (1988-1989); and Colorado (3391-3394).

³ The intent of the law is that notice of a non-resident's indigence shall be given the authorities of his place of settlement as soon as possible, and that, upon the receipt thereof, such authorities shall remove the indigent person without delay. Some states have definitely limited the time for which recovery for expense of relief may be had. For example, in Massachusetts and New Hampshire this limit is ninety days. On the

A few states provide that a county shall relieve an indigent non-resident and remove him to the place of his settlement, the expense of both relief and removal being recovered.¹

In a number of states, on the other hand, "common practice" seems to have been enacted into law. They have the provision that a non-resident indigent shall be cared for or else removed to his settlement.² Whether one shall be cared for or removed depends upon which is the more convenient. In Oklahoma, Indiana, the two Dakotas, and Kansas it is expressly a matter of convenience. The sick, however, are in no case to be removed.³

When a town or county is notified by another town or county of the indigence of one of its residents, it must remove him or else, if it feels aggrieved, protest his residence. When a pauper is removed by a town or county to his reputed settlement, he must be received, but such action may be protested. Settlement is a question of fact, and all protests are decided by the court or by a body authorized to decide such cases.⁴

other hand, the statutes of Massachusetts, Connecticut, Maine, and New Hampshire provide that a pauper must be removed or his settlement protested within sixty days, or protest of residence or expense is debarred. In Rhode Island protest is limited to forty days; in South Carolina, Michigan, Wisconsin, and Iowa, thirty days. In Ohio Nevada, and Colorado paupers are to be removed immediately.

¹ Pennsylvania (7 Kulp., 199, and 12 C. C., 305); Delaware (13, ch. 48); North Carolina (3540-3546); Mississippi (3145-3147); Minnesota (1965); Oregon (3950); and Wyoming (1957). In Pennsylvania such expense can be recovered only when the pauper has been removed to his settlement with reasonable promptness. In Delaware such recovery is definitely limited to six months. In Minnesota the pauper is to be warned to leave the county, and, if he does not do so within a reasonable time, he is to be removed.

² New Jersey (17, 23, Act of 1891); West Virginia (10, ch. 46); Virginia (878); Oklahoma (3657-3665); Indiana (6079); North Dakota (1485-1486); South Dakota (2151-2161); Kansas (4040-4050); Washington (1603); and Montana (3209-3211).

In Washington, as in Minnesota, a non-resident applying for relief is to be warned by the constable to leave the county. If he does not leave, he is to be removed.

³ In New Jersey (8, Act of April 14, 1891), Indiana (6089), and Kansas the expense incurred in the care of the sick is recovered from the place of settlement. In other cases it seems to be at the expense of the county caring for the sick. The courts of Dakota have held (1 S. D., 131) that the expense incurred in caring for the sick could not be recovered.

⁴ In a few states disputes between towns are settled by bodies other than the court.

II. LEGISLATION CONCERNING TRAMPS.

Under the topic of legislation concerning tramps and vagrants, we have to do not so much with a question of public relief as of the repression of "frauds" and the punishment of those who would live upon private charity. A "tramp," in the popular sense, is one who goes from place to place begging. The statutes of the several states, however, apply the term "tramp" to able-bodied persons roaming from place to place, asking or subsisting upon charity. The term "vagrant" is used to include tramps, able-bodied beggars, petty gamblers, and others living without work. Here, however, we shall consider the vagrancy laws only in so far as they apply to tramps and "common beggars."

Recurring for a moment to the statutory use of the term "tramp," let us notice the classes excluded from it. These are minors, females, and such males as from defect or incapacity are unable to perform manual labor. The age limit for minors varies in the different states, ranging from fourteen to seventeen years.¹ Persons not yet arrived at this age, if found wandering about, are usually cared for as dependent children or sent to the reform school as incorrigibles. In Kentucky and Missouri young vagrants are to be bound out.² Neither does the law usually apply to females. Throughout the South and West tramps are punished

This is the case in Michigan and New York, where cases of dispute between towns are decided by the superintendents of the poor. The court in which the protest is filed and heard is usually that of the county asking the removal of or removing the pauper. To avoid needless friction, protests are in many instances, when made, to be filed within a few days of notification, and if protest is not made within such period, it is barred. This time is two months in Massachusetts, Connecticut, and Maine; forty days in Rhode Island; thirty days in South Carolina, Wisconsin, and Iowa; twenty days in Oklahoma, Indiana, North Dakota, South Dakota, and Kansas; and ten days in Michigan and New York.

¹ In Massachusetts (38, ch. 207) and New Hampshire (7, ch. 286) the law applies to males over seventeen; in Vermont (3967), Connecticut (1551), Rhode Island (36, ch. 28), Delaware (Act of March 27, 1879), Wisconsin (1547), and Iowa (Act of May 3, 1890), to those over sixteen; and in Maine (21, ch. 128), North Carolina (3833), Indiana (2135), and Ohio (6995) to those over fourteen years of age.

² 4762; 8850.

under the vagrancy laws applying to able-bodied males.¹ The northern and eastern states usually make an exception of the blind and the otherwise defective.²

A further limitation of the term is found in several states where the law applies to those begging beyond the limits of their city, town, or county. In Connecticut the law applies to males begging beyond the limits of their city.³ In Rhode Island and Wisconsin the law applies to those begging in a town, in Indiana and Ohio to those begging in a county other than that of their legal settlement.⁴ In Pennsylvania and Delaware it applies to those strolling about without a fixed abode, and having no occupation.⁵ In New Jersey the law applies to non-residents who go about begging, or who, having no visible means of support, cannot give a good account of themselves.⁶ However, in Connecticut, cities have power to restrain and punish begging, while in all other states, save Maryland and New Jersey, all beggars not included under the term "tramps" are held to be vagrants and receive punishment similar to that of tramps.

While the term "tramp" is thus limited, it must be borne in mind that there is further legislation to supplement that against "tramps." Cities and towns (villages) usually have power to regulate, restrain, and punish street begging. In a few states all legislation on this subject is left to them. This is the case in

¹ We may quote parts of the vagrancy laws of Montana and Colorado as typical. That of Montana (1155) declares (1) "every person without visible means of living, who has the physical ability to work, and who does not seek employment, or labor when employment is offered him," and (2) "every healthy beggar who solicits alms, as a business," etc., to be a vagrant. That of Colorado (1362) reads: "Any person able to work and support himself in some honest calling, who shall be found loitering or strolling about, frequenting public places, or where liquor is sold, begging, or leading an immoral or profligate course of life, or not having any visible means of support, shall be deemed a vagrant. . . ."

² In Massachusetts, New Hampshire, Maine, Vermont, Connecticut, Rhode Island, North Carolina, Indiana, and Ohio the law applies neither to the blind, to females, nor to minors. In Pennsylvania the crippled, the blind, the deaf and dumb, and the otherwise defective are excepted, as are the disabled and incapable in Virginia (884). See the references given above.

³ 1551.

⁴ 36, ch. 281; 1547^d; 2135; 6995.

⁵ 1, p. 2066; 275.

⁶ Act of April 19, 1876.

Texas, Oklahoma, Minnesota, North Dakota, South Dakota, and Kansas.¹ In two states, Alabama and Oregon,² no legislation whatever upon the subject has been found.

Turning now to the punishment of tramps, we find that in the two states of West Virginia and Kentucky they are not considered as misdemeanants, and are, therefore, not punishable at all. In the former state "every overseer [of the poor] shall exert himself to prevent any person from going about begging or straying in any street or other place to beg. Every such person, if properly a county charge, shall immediately be taken up and conveyed to the place of the general reception for the poor of the county in which he may be, if there be one." If not properly a county charge (if he have no settlement in that county), he is to be removed to his place of settlement.³ In Kentucky the county judge is to send all persons found begging to the poorhouse along with other indigents.⁴ This provision is supplemented in this state, however, by the vagrancy law. Vagrancy is a high misdemeanor, and the vagrant may be bound out or sold into servitude for not longer than twelve months.⁵ In most states, however, "tramping" is considered a misdemeanor, and as such is punishable.

¹The provision found in Texas (399), Minnesota (1085³⁴, 1289³¹), North Dakota (2148⁵¹), and South Dakota is that city councils have power "to restrain and punish vagrants, street beggars, and prostitutes." The law in Oklahoma (592) provides that a city council "may arrest and imprison, fine, or set at work all vagrants and persons found in said city without visible means of support, or some legitimate business." The Kansas law (571, 819, 987) is similarly worded.

²Oregon's vagrancy law was repealed in 1889, and nothing seems to have been substituted for it. It read in part: "All idle or dissolute persons who have no visible means of living, or lawful occupation or employment by which to earn a living; all persons who shall be found within the state of Oregon begging the means of support in public places or from house to house, or who shall procure a child or children so to do; all persons who live in or about houses of ill-fame or of ill-repute, shall be deemed vagrants." Such were to be fined from \$20 to \$250, or committed to jail for from ten to twenty-five days, and employed upon the streets by the sheriff eight hours per day.

³13, ch. 46.

⁴3929.

⁵"If any able-bodied person be found loitering or rambling about, not having the means to maintain himself, or who does not betake himself to labor . . . he shall be taken and adjudged a vagrant, and guilty of a high misdemeanor" (4758).

The usual method of punishment provided for is to commit the convicted tramp to jail, where he is confined on a determinate sentence. With a few exceptions, every state west of the Mississippi having a statute upon the subject employs this method. In New Mexico the law provides that tramps shall be employed at hard labor from one to ninety days upon the streets or elsewhere, but they are, presumably, lodged at the county jail.¹ In Wyoming they may be employed upon public works or confined in jail.² In Missouri the "idle" and "dissolute" (vagrants) are to be hired out for six months to the highest bidder "with cash in hand."³ This method of committing the tramp to jail prevails among the southern states, also. While still the usual provision among the northern states, it is frequently supplanted by other legislation. In Massachusetts tramps are committed either to the state workhouse or to the house of correction;⁴ in Rhode Island to the workhouse or to the house of correction;⁵ in Connecticut to the state's prison;⁶ in Maryland to the house of correction;⁷ in Illinois to the jail or to the house of correction.⁸ In New York the law providing for the commitment of tramps to jail or to the almshouse was amended in 1891 so that they may be sent to the nearest local penitentiary and there employed at hard labor at state expense, such expense not to exceed thirty cents per day.

In Louisiana and Vermont tramps and vagrants are to be committed to the almshouse.⁹ In some other states, as in Michigan and New Jersey, they *may* be committed to the almshouse. In the former state they are to be committed either to the alms-

When bound out, the money advanced for his labor, after deducting costs, goes either to his family, or to himself, upon his release (4761, 4763, 5 Lit., 166). This does not apply to cities and towns which are empowered to legislate upon such matters (4767).

¹ Act of February 8, 1889.

³ 8846.

² 3647.

⁴ 39, ch. 207.

⁵ 30, ch. 281. Sturdy beggars are sent to prison for from six months to three years.

⁶ 1546. It has been said that the adoption of this law in Connecticut for a time stopped vagrancy, but that, as time went on and no arrests were made (none have been sent to prison), it became as prevalent as it had been before.

⁷ 275.

⁸ 270, ch. 38.

⁹ 3877; 3968.

house or to the workhouse,¹ and in the latter to the almhouse, jail, or workhouse, or are to be employed upon the streets.² Virginia should be mentioned along with New Mexico and Missouri, as she employs her tramps and vagrants on public account or hires them out for three months.³ So, too, in Delaware⁴ a vagrant may be bound out no longer than one month or confined in jail; while in Georgia⁵ he may be confined in jail, fined, bound out for not longer than a year, or dismissed upon bond for one year's good behavior. In a few states a fine instead of imprisonment may be imposed; but as this fine is almost invariably worked out in jail, it is merely another way of fixing the length of a sentence to jail.⁶

A sentence to prison without hard labor is not very effective in repressing vagrancy. Where tramps are committed to the state's prison, house of correction, or workhouse, work is provided for them. This is also the case in Virginia, Missouri, and New Mexico, where they are employed on public account or hired out. It is not always the case, however, where commitment to the jail or to the almshouse is provided for. In Vermont they are committed to hard labor in the almshouse. Hard labor is also required in Michigan and New Jersey, where such *may* be committed to the almshouse. The ten states of Maine, Pennsylvania, Delaware, South Carolina, Ohio, Wisconsin, Iowa,

¹ 1834. In Detroit tramps are to be sent to the house of correction (9858).

² Act of April 17, 1876.

³ 885.

⁴ Act of March 27, 1879.

⁵ 4560. Most of these laws providing for the binding out of vagrants are very old, and perhaps all "dead letters."

⁶ In South Carolina (Act of December 22, 1893), if a vagrant cannot give bond for good behavior, he is fined not to exceed \$100 or imprisoned not longer than thirty days. In Tennessee (2024, 2025) a fine of from \$5 to \$25, instead of imprisonment in the county workhouse from ten days to twelve months, may be imposed; in Illinois (270, ch. 38) \$20 to \$100, instead of from ten days' to six months' hard labor in jail or in the house of correction; in Nebraska (6908) not to exceed \$50, instead of not to exceed three months' hard labor in jail or elsewhere; in Colorado (1362) \$25 to \$200, instead of from ten to ninety days in jail; in Arizona (Act of March 19, 1891) \$3 to \$50, instead of from one to ninety days in jail; in Indiana (2134, 2135) and Ohio (6994) the punishment is a fine of from \$10 to \$50. The laws of Ohio and Colorado provide that such fines shall be worked out in jail—in the former at 75 cents, in the latter at \$2 per day.

Nebraska, Colorado, and Nevada commit them to hard labor in jail.¹ The ten states of New Hampshire, North Carolina, Florida, Mississippi, Arkansas, Indiana, Montana, Idaho, Utah, and California commit them to jail, but no provision requiring them to be employed has been found. Whether or not they are employed there depends upon the practice in the several institutions.

In Pennsylvania tramps are to be committed to hard labor with solitary confinement. Wisconsin and Iowa provide short terms in jail with solitary confinement for shorter terms at hard labor.² Arkansas still prescribes the "bread and water diet" for half of a sentence of from thirty to ninety days.³

But little need be said concerning the length of sentence. Usually the maximum sentence is fixed. In some cases a minimum is also fixed. The one noticeable feature about the length of sentence is that it is quite long in the North and East and gradually becomes shorter as we move south and west.⁴ But this is only one instance of the greater strictness of the law in the North and East—a fact so obvious from the details already given that attention need not be called to it.

As has already been stated, commitment is for a definite term—the sentence is "determinate." When the sentence has

¹ 17, ch. 288; 3, p. 2066; Act of 1861; Act of December 22, 1893; 6994; 1547²; 6908; 5527; 1362; 4768. In Maine tramps are to be required to work for ten hours per day for not less than sixty days.

² The punishment of tramps in Wisconsin is a sentence to hard labor in jail for not longer than sixty days, or solitary confinement for from three to ten days. In Iowa (Act of May 3, 1890) vagrants are to be sentenced to not more than ten days' hard labor in jail or to not more than five days' solitary confinement.

³ 1919.

⁴ The length of sentence to jail, state's prison, workhouse, house of correction, or almshouse, as the case may be, in the several states is as follows: in Massachusetts, from six months to two years; Rhode Island, one to three years; Maryland, two to twelve months; Pennsylvania, New Jersey, and Illinois, one to six months; Tennessee, ten days to twelve months; Arkansas, thirty to ninety days; New Mexico and Arizona, one to ninety days. In New Hampshire it is not longer than fifteen months; Connecticut and Michigan, one year; New York, Florida, Washington, and California, six months; Wisconsin, Nebraska, Montana, Idaho, Utah, and Nevada, ninety days; Delaware, sixty days; North Carolina and South Carolina, thirty days; Iowa, ten days at hard labor or five days in solitary confinement. In Maine it is not less than two months.

expired, the misdemeanant is released without any assurance as to his future good behavior.

One more point remains to be spoken of, viz., the extraordinary provision and the extra inducements found in a few states for the apprehension and conviction of tramps. In New Hampshire and Pennsylvania anyone witnessing an act of beggary on the part of a tramp may take him before the proper authority to be held for trial.¹ Upon conviction, in New Hampshire, a person so taking a tramp receives a reward of \$10. Similarly, in Connecticut and Rhode Island, an officer receives a reward of \$5 from the state for every tramp arrested and convicted, while in Nevada the district attorney receives \$10 for each case successfully prosecuted.² Maine provides for special constables in each school district to apprehend and arrest tramps.³ Massachusetts and New Hampshire likewise provide for the appointment of special officers in cities.⁴ In a few states, as in Vermont, Maryland, and Nebraska, refusal on the part of a tramp to work for what he gets is punishable.⁵ Other states add penalties for building fires, trespassing, etc., all of which discourages tramping and adds inducement for the tramp's arrest.

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¹ 5, ch. 286; 2, p. 2066.

² 1549; 33, ch. 281; 4774.

³ 24, ch. 128, as amended in 1889.

⁴ 40, ch. 207; 6, ch. 286.

⁵ 3968; Act of April 6, 1894; 6968.